

THE HON'BLE SRI JUSTICE C.V. RAMULU

Thursday, 16th November, 2006

W.P.No.9102 of 2005

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Between:

D. Madhusudan Reddy

... Petitioner

and

The Secretary, A.P. Government,
Irrigation Department, Hyderabad
and others

... Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.9102 of 2005

ORAL ORDER:

None present for the petitioner.

This Writ Petition is filed seeking a Mandamus directing the respondents to pay Rs.51,294/- as per G.O.Ms.No.23, dated 5-3-1999 with interest at the rate of 24% per annum.

It appears that the petitioner is a contractor. He had entered into an agreement with the respondents regarding "Earthwork excavation and construction of structures from KM 2.200 to KM 5.000 of 23L Madicherla Minor-I under Vempadu Major" vide L.S. Agreement No.32/SE/NZD/1999-2000, dated 18-8-1999. The period of completion of the work was six months, that is to be completed on or before 17-2-2000. It seems, the petitioner failed to complete the entire work within the stipulated period of contract. However, the time was extended upto 30-11-2000 and the petitioner had completed the work by 30-11-2000 and final bill was paid. The wages paid by the petitioner to Technical Agents as provided in the Agreement i.e. an amount of Rs.6,000/- was also paid to him. According to the petitioner, the reimbursement of wages of Technical Agents has been done only for Rs.6,000/-, whereas he is entitled for Rs.57,294/- . According to the respondents, the said claim is not correct. The provision made in the estimates is only Rs.6,000/- and the same was paid to the petitioner. Even as per the instructions in Para 1.04 of G.O.Ms.No.23, dated 5-3-

1999, additional condition No.11 was framed towards reimbursement of Technical Agents' wages and the same was enclosed to the tender documents as well as to the Agreement. The petitioner having knowledge of the said conditions, which was attached to the tender, made a false claim. This is only an after thought. The payment will have to be arranged by the Department within the purview of the agreement only. Therefore, the claim of Rs.51,294/- is far beyond the agreement conditions.

The sum and substance of the claim of the petitioner is that he has engaged Technical Agents for the purpose of execution of the said work and he paid an amount of Rs.57,294/- to them. This, according to the petitioner, is liable to be reimbursed as per the terms of the agreement. Whereas, as per the terms of the agreement read with G.O.Ms.No.23, dated 5-3-1999, the petitioner is entitled for reimbursement of only an amount of Rs.6,000/- and not more than that. Further, any claims beyond the value of Rs.50,000/- shall have to be decided by the civil Court of competent jurisdiction in a regularly instituted suit and no arbitration clause is there. Thus, there is a dispute as to the amount that is entitled by the petitioner for being paid to the Technical Agents for execution of the work. The same cannot be decided in a Writ Petition under Article 226 of the Constitution of India. It is always open for the petitioner to file a regular suit and work out his remedies.

Subject to the above observation, the Writ Petition is dismissed.
No order as to costs.

16-11-2006

prk